

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

GUEST TEK INTERACTIVE  
ENTERTAINMENT LTD.,

Plaintiff,

v.

EXCEPTIONAL INNOVATION, INC.,

Defendant.

Case No. 2:17-cv-00963

Judge Algenon L. Marbley

Magistrate Judge Chelsey M. Vascura

**JOINT MOTION TO MODIFY CASE SCHEDULE AND TO GRANT PLAINTIFF  
LEAVE TO CORRECT AND AMEND INFRINGEMENT CONTENTIONS**

On December 14, 2018, the Court issued an Order granting Plaintiff leave to file an amended complaint and to amend its infringement contentions accordingly.<sup>1</sup> The Order required Plaintiff to serve its new contentions by December 21. (ECF No. 42.) The Court also ordered the parties to jointly propose a revised case schedule by December 28, 2018, a deadline that the Court extended to January 11, 2019. (*Id.*; ECF No. 47.) In response, the parties are now submitting a proposed order that would modify the case schedule and, for the reasons below, grant Plaintiff leave to correct and further amend its infringement contentions.

In response to the Order, Plaintiff served amended infringement contentions on December 21, 2018. After reviewing Plaintiff's amended contentions, Defendant raised concerns

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<sup>1</sup> "Plaintiff's amendments to its infringement contentions must be limited to the issues specifically raised in the instant Motion to Amend Complaint and Infringement Contentions (ECF No. 39) and the First Amended Complaint (ECF No. 39-1)." (ECF No. 42, p. 9.)

that the contentions were deficient and that they exceeded the scope of the amendments the Court had authorized. Thereafter, Plaintiff discovered that, due to a document management issue, the amendments had been made to an incorrect set of earlier infringement contentions. The parties conferred about this issue. Defendant pointed out that correcting the error arising from the document-management issue would not address all of its concerns with Plaintiff's contentions. The parties have now agreed on a manner to proceed that will allow Plaintiff to correct the document-management issue with the amended contentions served on December 21, 2018, and further amend its contentions in connection with Defendant's concerns and objections concerning the sufficiency of the contentions.

Under this agreement, Plaintiff may, by February 25, 2019, update the charts in the infringement contentions served on December 21, 2018 to (1) address the errors arising from the document management issue and (2) amend its contentions by providing more detail or otherwise clarifying Plaintiff's existing theories of how the accused devices satisfy the limitations of the asserted patent claims.<sup>2</sup> Any discovery obligations on Defendant's part will be stayed through seven days after receiving Plaintiff's updated infringement contentions. The parties have agreed on a revised case schedule that is attached as Exhibit 1 to the proposed order accompanying this motion. The parties respectfully request that the Court enter the agreed-upon proposed order.

Respectfully submitted,

Dated: January 11, 2019

/s/ Lauren M. Hilsheimer

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<sup>2</sup> The parties agree that their proposed order would be without prejudice to either party's ability to seek leave to further amend contentions or to object to further amendments.

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Dated: January 11, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 11, 2019, a copy of the foregoing document was filed electronically with the Clerk of the Court using CM/ECF, which will send notification of such filing via electronic mail to all registered participants.

Dated: January 11, 2019

/s/ Lauren M. Hilsheimer

Lauren M. Hilsheimer

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